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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,399	10/16/2003	Mo Xu	1229.007	1345
37421	7590	11/29/2005	EXAMINER COMAS, YAHVEH	
WAX LAW GROUP 2118 WILSHIRE BOULEVARD, SUITE 407 SANTA MONICA, CA 90403			ART UNIT 2834	PAPER NUMBER

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/688,399

**Applicant(s)**

XU ET AL.

**Examiner**

Yahveh Comas

**Art Unit**

2834

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see pages 7-10, filed 9/19/2005, with respect to claims 1-20 have been fully considered and are persuasive. The rejection of claims 1-20 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 4-6, 9, 12-14, 17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Morita U.S. Patent No. 5,479,304.

Morita discloses a spindle motor comprising a rotatable component defining a bearing gap with a stationary component, a magnet affixed to the rotatable component (9), a stator (4), affixed to the stationary component, for generating an electromagnetic force that interact with the magnet (12) for driving the rotatable component and base (30) affixed to the stationary component, wherein the base plates (30, 1) defines a minimal axial gap with the magnet (12), the base plate (30, 1) comprising a first material (1) positioned adjacent to the magnet (12), and a second material (30) having a predefined stiffness, the second material (30) positioned at a greater radial distance from the magnet than the radial distance between the stator and the magnet (12). The first (1) and second materials (30) are made of nonmagnetic material such as

aluminum, iron-based materials, titania-based and others. The distance from the magnet to the second material is at least five times greater than the minimum radial distance from the magnet to the stator.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 2-3, 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita U.S. Patent No. 5,479,304.

Morita disclose the claimed invention except for an axial air gap with a range of .06mm to 0.1mm and the run current being about 40mA. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a an axial air gap with a range of .06mm to 0.1mm and the run current being

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about 40mA, in order to optimize performance of the machine, and because it has been held that merely optimized known dimensions is within the ordinary skill in the art. (See *In re Aller*, 105 USPQ 233.)

3. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita U.S. Patent No. 5,479,304 in view of AAPA (Applicant Admitted Prior Art).

Morita discloses the claimed invention except for the second material being steel. However, applicant discloses on page 4 that is well know the use of steel for base plate. Therefore it would have been obvious to one having skill in the art at the time the invention was made to modify Morita's invention and provide a base plate made of steel since that was already know in the art as disclosed by applicant.

4. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita U.S. Patent No. 5,479,304 in view of Heine et al. U.S. Patent no. 6,005,748.

Morita, as applied above, discloses the claimed invention except for the stationary component comprising a shaft (10) and the rotatable component comprising a sleeve (13) and a hub (12). However, Heine disclose the use of a motor comprising a hydrodynamic bearing, a stationary component comprising a shaft and the rotatable component comprising a sleeve and a hub in order to provide a hydrodynamic bearing useful in a spindle motor.

Therefore it would have been obvious to one having skill in the art at the time the invention was made to modify Morita's invention and provide a motor with hydrodynamic

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bearing, a stationary component comprising a shaft and the rotatable component since that would had been desirable for reduce vibration.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yahveh Comas whose telephone number is (571) 272-2020. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YC

  
DARREN SCHUBERG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800